

(Draft - Awaiting Formal Approval)
MINUTES OF THE
UTAH CONSTITUTIONAL REVISION COMMISSION
Thursday, December 10, 2009 – 9:00 a.m. – Room 450 State Capitol

Members Present:

Judge Jon M. Memmott, Chair
Mr. Roger Tew, Vice Chair
Sen. Peter C. Knudson
Sen. John L. Valentine
Rep. Brian S. King
Ms. Lisa Watts Baskin
Mr. Byron L. Harward
Mr. John T. Nielsen
Mr. Robin L. Riggs

Members Absent:

Rep. Sheryl L. Allen
Rep. Ronda Rudd Menlove
Mr. Kirk Jowers
Dr. Michael Petersen

Staff Present:

Mr. Jerry D. Howe, Policy Analyst
Mr. Robert H. Rees, Associate General Counsel
Ms. Amanda K. Majers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Memmott called the meeting to order at 9:08 a.m.

MOTION: Ms. Watts Baskin moved to approve the minutes of the November 12, 2009 meeting. The motion passed unanimously, with Sen. Knudson and Sen. Valentine absent for the vote.

2. Joint Resolution on Property Tax Exemption for Water Facilities

Rep. Patrick Painter discussed 2010 General Session draft legislation, "Joint Resolution on Property Tax Exemption for Water Facilities," which was distributed to the Commission prior to the meeting. He thanked the Commission for its input and guidance on the drafting of the proposed amendment and related that the proposed amendment passed as a committee bill at the November 18, 2009 Revenue and Taxation Interim Committee meeting. Rep. Painter distributed 2010 General Session draft legislation, "Property Tax Exemption for Water Facilities" and "Water Distribution Companies" for the Commission to review. Rep. Painter explained changes made to the proposed amendment since the Commission's last meeting.

Mr. Lee Gardner, Salt Lake County Assessor, spoke in favor of the proposed amendment.

Rep. Painter answered questions from the Commission.

MOTION: Mr. Tew moved to approve 2010 General Session draft legislation, "Joint Resolution on Property Tax Exemption for Water Facilities." The motion passed unanimously, with Sen. Valentine absent for the vote.

3. Joint Resolution Prohibiting Property Transfer Tax

Rep. Gage Froerer discussed 2010 General Session draft legislation, "Joint Resolution Prohibiting Property Transfer Tax," which was distributed to the Commission prior to the meeting. He informed the Commission of the background and purpose of the proposed amendment. Rep. Froerer explained that accurate and timely data are not currently available to assessors to correctly appraise property for tax assessment. He contended the disclosure legislation approved by the Revenue and Taxation Interim Committee and the proposed amendment, which prohibits a tax on the sale or transfer of real property or on the financing of the sale or transfer, are required to resolve the problem.

Mr. Nielsen inquired if transfer taxes are levied in other states and if those states that impose transfer taxes base it on property value or a flat tax. Rep. Froerer stated that for a typical state it is based on a percentage of the sales price.

Sen. Valentine expressed concern that the proposal may be read as prohibiting capital gains tax arising as a result of the transfer of real property. Rep. Froerer answered that the intent of the proposed amendment is meant to deal only with the transfer tax not income tax.

Mr. Harward asked if the disclosure bill passed by the Revenue and Taxation Interim Committee contains a transfer tax. Rep. Froerer explained that it does not, and it is the intent of the Revenue and Taxation working group to avoid the implementation of a transfer tax in the future by adopting the proposed amendment in conjunction with the disclosure legislation. Mr. Harward also inquired which group Rep. Froerer represents in his sponsorship of the proposed amendment. Rep. Froerer explained that he represents the working group that was authorized by the Revenue and Taxation Interim Committee. He stated that the proposed amendment was presented to that Committee at the November Interim meeting in conjunction with draft legislation addressing disclosure, but no action was taken on the proposed amendment by that Committee.

Rep. King asked if there is a current barrier to the passage of the disclosure legislation. Rep. Froerer responded that the working group was only in favor of the disclosure legislation if the imposition of a transfer tax was prohibited by the proposed amendment.

The Commission continued to discussed this issue.

Chair Memmott stated that as a tax court judge he is concerned Sen. Valentine's argument could be used by litigants and the proposed amendment could create problems in the future. He related that the Commission is in favor of studying the issue, but would not take action on the proposed amendment at this time. Rep. Froerer stated that he would like to bring the proposed amendment back to the Commission for further discussion.

4. Other Business / Adjourn

Chair Memmott stated that the Commission's next meeting will most likely be during the 2010 General Session, and he explained the Commission will decide which issues to study for next year after the conclusion of the 2010 General Session. The Commission also discussed commission vacancies.

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MOTION: Sen. Knudson moved to adjourn the meeting. The motion passed unanimously.

Chair Memmott adjourned the meeting at 9:51 a.m.